

Senate Bill 515

By: Senators Moody of the 56th, Weber of the 40th, Douglas of the 17th, Starr of the 44th and Thomas of the 54th

**AS PASSED**

**AN ACT**

To amend Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the "Quality Basic Education Act," so as to change certain provisions relating to the remedial education program; to change certain provisions relating to determination of enrollment by institutional program and determination of funds to be appropriated; to change certain provisions relating to equalization grants; to revise definitions relating to capital outlay funds generally for purposes of conformity; to provide for related matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

**SECTION 1.**

Article 6 of Chapter 2 of Title 20 of the Official Code of Georgia Annotated, relating to the "Quality Basic Education Act," is amended by striking subsection (a) of Code Section 20-2-154, relating to the remedial education program, and inserting in lieu thereof the following:

"(a) All children and youth who are eligible for a general and career education program under Code Section 20-2-151 and who are also eligible under the criteria specified in this Code section shall be provided, in accordance with policies adopted by the State Board of Education, the remedial education program services needed to address their respective reading, mathematics, or writing deficiencies. The following students shall be eligible for remedial education services:

(1) Students in grades six through 12 may be eligible for services if they meet two or more of the following criteria:

- (A) The student has been through the formal student support team process and has documented evidence to support the placement in remedial education;
- (B) The student has been retained in the grade;

(C) The student is receiving services under Part A of Chapter 1 of Title 1 of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994 (Public Law 103-382);

(D) The student has been recommended by the teacher who has documented any of the following student information:

- (i) Low performance in the reading series system;
- (ii) Low performance in the mathematics series; or
- (iii) The student is unable to verbally express ideas and cannot write or dictate a meaningful sentence; or

(E) Current test information in the student file indicates the student has a score at or below the twenty-fifth percentile; and

(2) Students in grades six through 12 who are receiving services under the special education program as authorized by Code Section 20-2-152 and whose Individualized Education Programs (IEP's) specify that they meet the eligibility requirements specified in paragraph (1) of this subsection and that their special education program is not designed to address their respective reading, mathematics, or writing deficiencies.

No more than 25 percent of the full-time equivalent population in eligible grades as specified in paragraphs (1) and (2) of this subsection shall be eligible for the remedial program; provided, however, that the State Board of Education may develop regulations whereby a higher percentage may be eligible if the percentage of students receiving free and reduced price lunches exceeds 50 percent."

## **SECTION 2.**

Said article is further amended by striking Code Section 20-2-160, relating to determination of enrollment by institutional program and determination of funds to be appropriated, and inserting in lieu thereof the following:

"20-2-160.

(a) The State Board of Education shall designate the specific dates upon which two counts of students enrolled in each instructional program authorized under this article shall be made each school year and by which the counts shall be reported to the Department of Education. The initial enrollment count shall be made after October 1 but prior to November 17 and the final enrollment count after March 1 but prior to May 1. The report shall indicate the student's specific assigned program for each one-sixth segment of the school day on the designated reporting date. No program shall be indicated for a student

for any one-sixth segment of the school day that the student is assigned to a study hall; a noncredit course; a course recognized under this article or by state board policy as an enrichment course, except a driver education course; a course which requires participation in an extracurricular activity for which enrollment is on a competitive basis; a course in which the student serves as a student assistant to a teacher, in a school office, or in the media center, except when such placement is an approved work site of a recognized career or vocational program; an individual study course for which no outline of course objectives is prepared in writing prior to the beginning of the course; a course taken through the Georgia Virtual School pursuant to Code Section 20-2-319.1; or any other course or activity so designated by the state board. For the purpose of this Code section, the term 'enrichment course' means a course which does not dedicate a major portion of the class time toward the development and enhancement of one or more student competencies as adopted by the state board under Code Section 20-2-140. A program shall not be indicated for a student for any one-sixth segment of the school day for which the student is not enrolled in an instructional program or has not attended a class or classes within the preceding ten days; nor shall a program be indicated for a student for any one-sixth segment of the school day for which the student is charged tuition or fees or is required to provide materials or equipment beyond those authorized pursuant to Code Section 20-2-133. A student who is enrolled in an eligible institution under the program established in Code Section 20-2-161.1 may be counted for the high school program for only that portion of the day that the student is attending the high school for those segments that are eligible to be counted under this subsection. The state board shall adopt such regulations and criteria as necessary to ensure objective and true counts of students in state approved instructional programs. The state board shall also establish criteria by which students shall be counted as resident or nonresident students, including specific circumstances which may include, but not be limited to, students attending another local school system under court order or under the terms of a contract between two local school systems. If a local school system has a justifiable reason, it may seek authority from the state board to shift full-time equivalent program counts from the designated date to a requested alternate date.

(b) The full-time equivalent (FTE) program count for each local school system shall be obtained in the following manner:

- (1) Count the number of one-sixth segments of the school day for which each student is enrolled in each program authorized under Code Section 20-2-161; and

- (2) Divide the total number of segments counted for each program by six. The result is the full-time equivalent program count for each respective state recognized program.
- (c) For the purpose of initially determining the amount of funds to be appropriated to finance each respective program for the ensuing fiscal year, a projection of the second full-time equivalent program count shall be calculated as follows:
- (1) Divide the first total full-time equivalent count for the current fiscal year by the first total full-time equivalent count for the immediately preceding fiscal year;
  - (2) Multiply the quotient obtained in paragraph (1) of this subsection by the second total full-time equivalent count for the immediately preceding fiscal year. The result shall be the projected second total full-time equivalent count for the current fiscal year;
  - (3) Divide the average of the local school system's two most recent full-time equivalent program counts by the average of the two most recent total full-time equivalent counts; and
  - (4) Multiply the quotient obtained in paragraph (3) of this subsection by the product obtained in paragraph (2) of this subsection. The result shall be the projected second full-time equivalent program count for the current fiscal year.
- (d) The average of the first full-time equivalent program count, weighted two parts, and the projected second full-time equivalent program count, weighted one part, shall be used to initially determine the funds needed to finance the program for the ensuing fiscal year.
- (e) For purposes of calculating allotments for a new or revised instructional program for which the full-time equivalent program counts provided for in subsections (a) through (d) of this Code section do not exist, the most recent full-time equivalent program count shall be used until such time as the full-time equivalent program counts provided for in subsections (a) through (d) of this Code section do exist.
- (f) The allotments for the alternative education program shall be calculated as provided in subsection (h) of Code Section 20-2-154.1."

### SECTION 3.

Said article is further amended by striking Code Section 20-2-165, relating to equalization grants, and inserting in lieu thereof the following:

"20-2-165.

- (a) As used in this Code section, the term:

- (1) 'Assessed valuation' is defined as 40 percent of the equalized adjusted property tax digest reduced by the amount calculated pursuant to subsection (g) of Code Section 20-2-164.
- (2) 'Assessed valuation per weighted full-time equivalent count' is defined as the assessed valuation for the most recent year available divided by the weighted full-time equivalent count for the year of the digest.
- (3) 'Effective millage rate' is defined as local tax revenues divided by the assessed valuation and multiplied by 1,000; provided, however, that if the amount of local tax revenues is subsequently adjusted as a result of an audit of a local school system's annual financial report, the increase or decrease in local tax revenues resulting from the audit shall cause an adjustment to be made in the effective millage rate that was calculated initially. Any net change in the amount of equalization dollars earned as a result of such adjustment shall be applied to the amount of the local school system's equalization grant in a subsequent fiscal year.
- (4) 'Eligible full-time equivalent program count' is defined as the sum of the full-time equivalent resident student count and full-time equivalent nonresident student count pursuant to subsection (d) of Code Section 20-2-160 for each program specified pursuant to subsection (b) of Code Section 20-2-161; provided, however, that each local school system's total full-time equivalent nonresident student count for all programs except programs for persons with disabilities shall not exceed the lesser of the count for fiscal year 2000 or the count for any ensuing fiscal year, unless the local school system serves under contract all of the students in one or more grade levels from an adjoining system or unless the system serves students from an adjoining system under court order.
- (5) 'Equalized adjusted property tax digest' is defined as the most recent equalized adjusted property tax digest furnished to the State Board of Education pursuant to paragraph (1) of subsection (c) of Code Section 20-2-164.
- (6) 'Guaranteed valuation school system' is defined as the local school system ranking at the seventy-fifth percentile in dollars of assessed valuation per weighted full-time equivalent count, where the ranking of school systems is such that the one-hundredth percentile school system is that with the highest amount in dollars of assessed valuation per weighted full-time equivalent count. For the purpose of determining the assessed valuation per weighted full-time equivalent count of the guaranteed valuation school system only, a reduction of the assessed valuation for exemptions authorized by Code

Sections 48-5-44 and 48-5-48 shall be calculated whether such exemptions are granted or not granted by the guaranteed valuation school system.

(7) 'Local tax revenues' is defined as the sum of tax revenues for a local school system as furnished to the Department of Education by the school system in its annual financial report, reduced by the total amount of general funds expended for capital outlay or transferred into an escrow account for capital outlay purposes for the most recent fiscal year such data are available and increased by any federal funds designed to replace local tax revenues provided to the said system; provided, however, that the local school system has furnished the state board with acceptable documentation which clearly identifies the source or sources of such federal funds.

(8) 'Most recent weighted full-time equivalent count' is defined as the weighted full-time equivalent count derived from full-time equivalent program count data obtained for the purpose of determining the funds initially needed to finance the Quality Basic Education Formula pursuant to subsection (d) of Code Section 20-2-160 for the next ensuing fiscal year.

(9) 'Qualified local school system' is defined as any local school system having an assessed valuation per weighted full-time equivalent count for the year of the digest ranking below the guaranteed valuation school system and having an effective millage rate greater than the millage rate applied to calculate the local five mill share pursuant to subsection (a) of Code Section 20-2-164.

(10) 'Weighted full-time equivalent count' is defined as the sum of all eligible full-time equivalent program counts multiplied by their respective program weights in effect during the fiscal year that the full-time equivalent program counts were obtained pursuant to Code Section 20-2-161.

(11) 'Weighted full-time equivalent count for the year of the digest' is defined as the weighted full-time equivalent count derived from full-time equivalent program count data obtained for the purpose of determining the funds initially needed to finance the Quality Basic Education Formula pursuant to subsection (d) of Code Section 20-2-160 for the current fiscal year.

(b) The State Board of Education shall annually calculate the equalization grant for each qualified local school system in the following manner:

(1) Subtract the assessed valuation per weighted full-time equivalent count for the local school system from the assessed valuation per weighted full-time equivalent count for the guaranteed valuation school system;

- (2) Divide the difference resulting from paragraph (1) of this subsection by 1,000;
- (3) Subtract five from the effective millage rate for the local school system and use the resulting number of effective mills or 15 effective mills, whichever is less, as the number of effective mills to be equalized;
- (4) Multiply the quotient resulting from paragraph (2) of this subsection by the number of effective mills to be equalized pursuant to paragraph (3) of this subsection; and
- (5) Multiply the product resulting from paragraph (4) of this subsection by the most recent weighted full-time equivalent count for the local school system.

The resulting amount shall be the equalization grant for the ensuing fiscal year; provided, however, that for each local school system which serves under contract all of the students in one or more grade levels from an adjoining system and for each local school system which sends under contract all of the students in one or more grade levels to an adjoining system, the equalization grant shall be calculated to represent the amount that would be earned if the students transferred under said contract were included in the full-time equivalent counts of the local school system in which they reside; provided, further, that any equalization grant to be earned by a local school system sending students to another system under the provisions of such a contract shall be reduced by an amount which represents the equalization funds earned per weighted full-time equivalent student multiplied by the total weighted full-time equivalent count for students transferred, and any equalization grant to be earned by the local school system receiving students under said contract shall be increased by the same amount.

(c) The State Board of Education shall allocate respectively the amount calculated under subsection (b) of this Code section to each qualified local school system. For the first effective year of the merger of any two or more local school systems, the equalization grant shall be the addition of amounts which would have been separately earned by the systems participating in the merger or the amount which would have been earned if the systems had already been merged during the year of the applicable digest, whichever is greater. No portion of local five mill share shall be applied to such equalization grants. In the event sufficient funds are not appropriated in a fiscal year to the state board to allot the full amount of equalization grants calculated to be payable to qualified local school systems as provided in this Code section, the state board shall proportionately reduce the amount of funds to be allocated to qualified local school systems.

(d)(1) A midterm adjustment in a local school system's equalization grant shall be made if:

(A) The school system ranks at or below the seventy-fifth percentile in dollars of assessed valuation per weighted full-time equivalent count, where the ranking of school systems is such that the one-hundredth percentile school system is that with the highest amount in dollars of assessed valuation per weighted full-time equivalent count; and

(B) The school system increases the actual millage levied against its digest for maintenance and operation.

(2) If made, the midterm adjustment to the equalization grant shall be calculated as follows:

(A) Calculate the percentage change in the actual millage rate for a school system by subtracting the actual millage rate for the prior year from the actual millage rate for the current year and dividing by the actual millage rate for the prior year; provided, however, that for local school systems that impose local option sales taxes for school maintenance and operation, as authorized by law, the Department of Education shall be authorized to adjust this calculation by adding the equivalent property tax millage that would be needed to produce the revenue raised by the local option sales tax to the actual millage rate and calculating a revised percentage change;

(B) If the result from subparagraph (A) of this paragraph is a positive number, multiply the number of effective mills calculated as part of the original equalization grant calculation for a given year by the percentage increase calculated in subparagraph (A) of this paragraph. Add the product of this calculation to the effective number of mills from the original equalization grant calculation as described in subsections (a) through (c) of this Code section;

(C) Recalculate the equalization grant substituting the revised number of effective mills calculated in subparagraph (B) of this paragraph; and

(D) Subtract the initial equalization grant amount from the amount calculated in subparagraph (C) of this paragraph.

The resulting amount shall be the midterm adjustment to the equalization grant.

(e) If the result from subparagraph (A) of paragraph (2) of subsection (d) of this Code section is a positive number, the local school system's number of effective mills used in the calculation of its equalization grant for the ensuing fiscal year shall be adjusted by multiplying the number of effective mills calculated pursuant to paragraph (3) of subsection (b) of this Code section by the percentage increase calculated in subparagraph (A) of paragraph (2) of subsection (d) of this Code section. The resulting amount shall be the adjusted number of effective mills used in the calculation of the equalization grant pursuant



to paragraph (3) of subsection (b) of this Code section; provided, however, that in no event shall the adjusted number of effective mills to be equalized exceed 15 effective mills. For Fiscal Year 2006 only, adjustments to equalization grants as provided in this subsection shall be allocated to local school systems following the adoption of the amended Appropriations Act for Fiscal Year 2006."

#### **SECTION 4.**

Said article is further amended by in Code Section 20-2-260, relating to capital outlay funds generally, by striking paragraphs (8) and (17) of subsection (b) and inserting in their respective places the following:

"(8) 'Full-time equivalent student count' is defined as the average of the two full-time equivalent counts pursuant to subsection (d) of Code Section 20-2-160 for a school year."

"(17) 'Weighted full-time equivalent student count' is defined as the most recent weighted full-time equivalent count as defined in paragraph(8) of subsection (a) of Code Section 20-2-165."

#### **SECTION 5.**

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

#### **SECTION 6.**

All laws and parts of laws in conflict with this Act are repealed.